

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOHN HSU,

No. C 08-02586 MHP

Plaintiff,

MEMORANDUM & ORDER

v.

**Re: Plaintiff's request to reopen case for
hearing and request to supplement
complaint**

CALIFORNIA DEPARTMENT OF TOXIC
SUBSTANCES CONTROL and JEFFERY
WONG, in his personal capacity

Defendants.

Plaintiff John Hsu ("plaintiff") brought this suit against the California Department of Toxic Substances Control ("DTSC") and Jeffery Wong (collectively "defendants") alleging employment discrimination in violation of Title VII of the Civil Rights Act of 1964. Now before this court are plaintiff's requests to: (i) reopen this case for hearing, (ii) supplement his Complaint, (iii) and inspect the DTSC facility. Having considered the parties' arguments and submissions, and for the following reasons, plaintiff's requests are DENIED.

BACKGROUND

On September 22, 2009, this court ordered this matter stayed/administratively closed pending resolution of state and personnel board matters. Docket No. 37. On January 25, 2011, this court ordered that all of "[plaintiff's] property, including but not limited to 18 boxes of material left at plaintiff's former work stations in DTSC in 2007 shall be picked up by [plaintiff] on or before February 28, 2011." Docket No. 45 (Order for preservation of records). On January 31, 2011,

1 defendant informed plaintiff that the boxes were available for his pick up and that if he did not pick
2 up the boxes by the close of business on February 28, 2011, the contents would be destroyed.
3 Docket No. 51 (Ross Dec.), Exh. C. In four subsequent letters, defendants offered plaintiff the
4 opportunity to pick up the 18 boxes containing his personal, non-litigation related documents and/or
5 items and reminded that they would be destroyed if not picked up by the close of business on
6 February 28, 2011. Ross Dec., Exhs. D-G. Despite these proposals, plaintiff has not picked up the
7 boxes. Ross Dec., Exh. F.

8 On February 3, 2011, this court ordered that plaintiff “shall file no further papers with this
9 court except as necessary to reopen only after decision by state agency and or courts hearing this
10 matter and for which a stay was granted.” Docket No. 49 (February 3 Order). The state court and
11 State Personnel Board matters are still pending resolution. RG08428583. *John Hsu v. Bruce*
12 *LaBelle, Jarnail Garcha, Jeffrey Wong, California Department of Toxic Substances Control.*

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15 DISCUSSION

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17 I. Request to reopen the case for rehearing

18 On September 22, 2009, this court ordered this matter stayed/administratively closed pending
19 resolution of state and personnel board matters. Docket No. 37. At the January 6, 2011 case
20 management conference in Alameda County Superior Court, defendants requested the existing state
21 court stay be continued so that all petitions for review, including plaintiff’s State Personnel Board
22 matter, may be resolved. RG08428583. *John Hsu v. Bruce LaBelle, Jarnail Garcha, Jeffrey Wong,*
23 *California Department of Toxic Substances Control.* The state court extended the stay and ordered
24 the stay to remain open. Ross Dec., Exh. A. The state court and State Personnel Board matters are
25 still pending resolution. Accordingly, plaintiff’s request to reopen the case for hearing is DENIED.

1 II. Request to supplement complaint

2 On February 3, 2011, this court ordered that plaintiff “shall file no further papers with this
3 court except as necessary to reopen only after decision by state agency and or courts hearing this
4 matter and for which a stay was granted.” February 3 Order. The California State Court and State
5 Personnel Board matters are still pending resolution. RG08428583. *John Hsu v. Bruce LaBelle,*
6 *Jarnail Garcha, Jeffrey Wong, California Department of Toxic Substances Control.* Accordingly,
7 plaintiff’s request to supplement his complaint is DENIED.

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10 III. Request to permit inspection of DTSC facility

11 This court held on January 25, 2011 that after “[February 28, 2011] defendants have no
12 further obligation to retain or preserve plaintiff’s material or property unless they agree to an
13 extension of this date.” Defendants have not agreed to such an extension. Further, plaintiff’s
14 request to inspect the DTSC facility is vague, ambiguous, and burdensome on defendants. This
15 court has no authority to order defendants to allow plaintiff to search its facility and troll its files.
16 Since plaintiff no longer works at DTSC, the agency is free to exclude him from its premises. For
17 these reasons, plaintiff’s request to vacate the February 28, 2011 deadline and permit inspection of
18 the DTSC facility is DENIED.

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20 CONCLUSION

21 For the foregoing reasons, plaintiff’s requests are DENIED. Plaintiff shall file no further
22 papers or materials in this action until his state case is fully resolved.

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24 Dated: March 4, 2011

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26 MARILYN HALL PATEL
27 United States District Court Judge
28 Northern District of California